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South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

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STATE DOCUMENTS

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CONTENTS

POTENTIAL ISSUES FOR 2004	02
BILLS INTRODUCED IN THE HOUSE	09

NOTE: Bill summaries included in this document are prepared by the staff of the South Carolina House of Representatives and are not the expression of the legislation's sponsor(s) or the House of Representatives. The summaries are strictly for the internal use and benefit of members of the House of Representatives and are not to be construed by a court of law as an expression of legislative intent.

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POTENTIAL ISSUES FOR 2004

FOREWORD

The potential issues referenced in this document were identified by the Office of House Research, with assistance from the research staffs for the respective House of Representatives standing committees. The list is not exhaustive.

Many of these issues were introduced in the General Assembly in 2003 and were carried over for consideration this year; others have come to prominence since the 2003 session ended. The document is by no means intended to suggest an agenda. We hope that this document will be helpful to our members as we begin the 2004 legislative year.

ALTERNATIVE SENTENCING

Lawmakers may examine alternative sentencing proposals under which certain nonviolent offenders would be allowed to serve portions of their sentences outside of correctional facilities. Lawmakers are considering legislation under which certain nonviolent offenders serving less than five years in prison could be eligible for such sentencing alternatives as house arrest, daily supervision programs, or electronic monitoring.

AQUATIC LIFE PROTECTION ACT

Legislators may address the Aquatic Life Protection Act which would modify a water quality test currently being used by the Department of Health and Environmental Control (DHEC) to determine water discharge limits. The test, which measures reproductive rates of a water flea to test the quality of the water discharge, has drawn criticism from industry experts who argue that it is too unreliable.

AT-WILL EMPLOYMENT

In 2003, the House passed and sent to the Senate legislation revising South Carolina's at-will employment doctrine in light of recent court rulings under which employers who use employee handbooks, even with conspicuous disclaimers and employee acknowledgements, may inadvertently create a contract of employment that replaces the intended at-will employment relationship. Under the House-passed bill, no handbook, policy, procedure, or other document issued by an employer or its agent may form an express or implied contract of employment, unless specified

criteria are met. The legislation would apply to both private and public employment. The Senate amended the legislation and gave it second reading approval prior to adjournment for the year.

BUDGET CONCERNS

Crafting a state budget which meets the critical needs of State government with extremely limited revenue is expected to be one of the toughest issues the General Assembly will address in 2004. The Board of Economic Advisors' November estimate for Fiscal Year 2004-2005 predicted that South Carolina's revenue growth will be only 2%, for a total General Fund revenue of \$5.5 billion. This only yields \$25 million in new General Fund revenue, and we are faced with budget concerns which include, but are not limited to, possible annualizations of around \$235 million; a \$155 million deficit remaining from Fiscal Year 2001-2002; and growth in Medicaid and the Education Finance Act.

CHILDREN'S ADVOCACY CENTERS

In 2003, the Senate approved and sent to the House of Representatives a bill establishing Children's Advocacy Centers throughout the state to promote a timely, coordinated, multi-disciplinary approach for the investigation, treatment, and prosecution of child abuse cases. The network of advocacy centers is designed to enhance safety and minimize trauma for children who are the subject of abuse cases. As of the time of adjournment for the year, the bill had been reported out of the House Judiciary Committee and amended on the House floor.

DIABETES SCHOOL CARE ACT

The Diabetes Mellitus School Care Act is pending in the House Medical, Military, Public and Municipal Affairs Committee. This bill would, among other things, require public schools in this state that do not employ a full-time registered nurse to provide training to at least two school employees who would serve as diabetes care providers. With parental consent and physician authorization, the bill also allows students with diabetes to perform certain functions at school for the care and management of their disease. The bill prohibits a school from denying a diabetic student access to school activities or programs because of the disease, except for certain specified reasons.

ECONOMIC DEVELOPMENT INITIATIVES

A number of economic development initiatives were considered and carried over from the 2003 legislative session and are likely to be considered in 2004.

The House and Senate approved differing versions of the South Carolina Life Sciences Act, a bill offering incentives for businesses engaged in pharmaceutical, medicine, and related laboratory instrument manufacturing, processing, or research and development.

The House and Senate approved differing versions of the Research Universities Restructuring and Infrastructure Act, a bill which revises current provisions to allow South Carolina's research universities - the University of South Carolina, Clemson University, and the Medical University of South Carolina - to focus on research and development and to focus on their role in a knowledge-based economy.

The House and Senate also approved differing versions of the Venture Capital Investment Act, which establishes within the Department of Commerce a fund to promote investment in knowledge-based technology and other growth-oriented companies in South Carolina.

EDUCATION AND ECONOMIC DEVELOPMENT

The South Carolina Education and Economic Development Act is pending consideration in the House Education and Public Works Committee. This bill requires the Department of Education to develop a curriculum which provides the state's public elementary, middle, and high school students with individualized educational, academic, and career-oriented choices and greater exposure to career information and opportunities.

GAMBLING

Lawmakers may address the Catawba Indian Tribe's proposal for establishing a high-stakes bingo operation under the federal Indian Gaming Regulatory Act that would be located off Interstate 95 at Santee in Orangeburg County.

GAME ZONE CONSOLIDATION

Legislators may explore the idea of bringing more standardization to wildlife regulation by consolidating the state's eleven Game Zones into a few larger zones.

HOG FARMS

In 2003 the House of Representatives approved and sent to the Senate a bill prohibiting a county from imposing livestock or poultry standards that supercede or are more stringent than those established by the General Assembly. Notably, the legislation impacts a county's authority to regulate large-scale hog farming operations. At the time of adjournment for the year, the bill had been reported out

of the Senate Judiciary Committee with a report of favorable with amendment from the majority and an unfavorable report from the minority.

HOSPITAL PATIENT PROTECTION

Legislators may address the "Lewis Blackman Hospital Patient Protection Act." The legislation requires a hospital to assign a primary attending physician to a patient upon admission and requires the attending physician, or his designee, to examine the patient daily. The legislation provides for other requirements that are geared towards supplying a hospital patient with information on who will be providing care and how caregivers may be contacted.

MAP COMMISSION REPORT RECOMMENDATIONS

In June of 2003, Governor Sanford created the Governor's Commission on Management, Accountability and Performance (MAP), charged to determine how South Carolina government can be more productive, efficient and cost effective while providing quality service. The Commission presented a comprehensive report to the Governor which recommended significant changes to South Carolina State government. Those recommendations include, but are not limited to: restructuring the Executive Branch of State government from nine constitutional officers to six and clustering of certain agencies under a cabinet secretary; repeal of the Teacher and Employee Retention Incentive Program (TERI); and altering the way we forecast revenues and use projections in the budget-writing process.

MASS TRANSPORTATION

The House approved legislation last year which requires the Department of Transportation to convene and complete a Mobility Development Study Committee of representatives from state and local health and human services agencies, at least one representative of a rural transportation authority, and one representative of a mass transit light rail system. The committee must submit to the Joint Legislative Committee on Medicaid and Health Care and to the Senate Transportation Committee and the House Education and Public Works Committee, a statewide plan for improving the coordination of public transportation services .

MEDICAID REFORM

Last year the House approved comprehensive legislation which reforms the state's Medicaid system and reorganizes and restructures state health and human services agencies. Among other things, the bill creates a central department to develop a coordinated strategic plan for information resources management and to manage and administer all information technology for the designated health and human services agencies. The bill also creates an oversight committee - with

representation from the House, the Senate, and the Governor's Office - to oversee the Medicaid program and health care programs, and to study the Medicaid system and recommend changes to make the program more easily understood, more stable, and more affordable. The bill establishes significant Medicaid initiatives which address issues including but not limited to: waste and fraud; cost containment and cost analysis; and prescription drug access and affordability. The bill, pending in the Senate Medical Affairs Committee, also creates an initiative which strengthens laws against underage tobacco purchase and use and sets penalties for violation of these laws.

PRIMARY ENFORCEMENT OF SEAT BELTS

The House approved legislation last year which would authorize primary enforcement of seat belt and child restraint requirements by eliminating current statutory language which provides that a law enforcement officer must not stop a driver for a seat belt or child restraint violation in the absence of another violation of the motor vehicle laws. Under the House-passed legislation, a law enforcement officer must not stop a driver for a seat belt or child restraint violation except when the officer has probable cause for such a violation based on his clear and unobstructed view of a driver or an occupant of the motor vehicle who is not wearing a safety belt or is not secured in a child restraint system as required. The legislation expands the provision under which a vehicle, driver, or occupant in a vehicle may not be searched solely because of a seat belt/child restraint violation, by adding "nor may consent to search be requested."

PROMPT PAYMENT OF HEALTH INSURANCE CLAIMS

The General Assembly may consider establishing provisions for timely payment by health carriers (including insurers, HMOs, PPOs, and other health plans) of claims for reimbursement for services rendered by physicians and other healthcare providers.

PUBLIC SERVICE COMMISSION REFORM

In 2003, the House and Senate approved different versions of legislation providing comprehensive revisions to the Public Service Commission, the body elected by the General Assembly to regulate the State's public utilities. No compromise legislation was adopted prior to adjournment for the year, but a conference committee has been addressing the differences of the bodies during the interim. The legislation under consideration establishes new qualifications for Public Service Commission candidates, places certain restrictions on the activities of Commissioners and PSC officials, and revises the way in which public interests are represented in matters before the Commission.

SHORTENING THE LEGISLATIVE SESSION

In 2003, the House of Representatives approved and sent to the Senate two legislative measures that would shorten the time the General Assembly spends in regular session each year. This legislation has been referred to the Senate Judiciary Committee.

SPENDING LIMITATIONS

Looking towards preventing future budget crises, the House approved in February 2003, a bill and a joint resolution (proposing the pertinent amendments to the State Constitution) providing for new state appropriations limitations. Both the bill and the joint resolution are pending in Senate Committee. Effective beginning with Fiscal Year 2005 appropriations, the bill provides for a new state appropriations limit that would be the lesser of 106% of base-year appropriations, or base-year appropriations increased by a percentage formula based on the State's growth in population and any increases in the consumer price index. The bill also establishes a spending limit reserve fund, available for specified purposes, which would be comprised of all general fund revenues accumulated in a fiscal year in excess of the appropriations limit. These funds would be available for appropriation by the General Assembly in the year following the close of the applicable fiscal year.

STATE GOVERNMENT RESTRUCTURING

Several comprehensive State government restructuring initiatives have been introduced in the General Assembly. Legislation under consideration includes significant restructuring for the Budget and Control Board and several proposals to convert various State Constitutional Officer positions that are currently elected by the general public into positions that would be appointed by the Governor.

TAX PROPOSALS

2003 legislation is pending which would eliminate the use of local property taxes to pay for school districts, and would instead fund the schools through an increase in the state's sales tax.

In 2003 the General Assembly also considered, but did not approve, an increase in the tax on cigarettes, with the additional revenue to be used to help fund Medicaid. Various bills which increase the cigarette tax are pending and may be considered this year.

TAXATION OF TELECOMMUNICATIONS COMPANIES BY MUNICIPALITIES

In 1999 the General Assembly passed legislation establishing a new system of business license taxes and fees levied on telecommunications services by municipalities. With final rates set to go into effect under the legislation's five-year timetable, the General Assembly may examine adjusting rates so as to maintain a constant revenue stream for cities. At the end of the 2003 session, the Senate passed provisions for raising the rates and the legislation has been referred to the House Labor, Commerce and Industry Committee.

TORT REFORM

The General Assembly is considering legislation that would provide comprehensive revisions for the way in which the state's judicial system handles torts. A tort is a private or civil wrong or injury, including an action for bad faith breach of contract, for which the court provides a remedy in the form of an action for damages. Tort reform encompasses a wide array of provisions including: proposed limits on awards for noneconomic damages such as emotional distress; new criteria for the awarding of punitive damages; revisions to the way damages are recovered from multiple defendants so as to provide that the liability of each defendant under certain actions is to be proportional to that defendant's percentage of fault; a revision of the collateral source rule so as to provide that any compensation a plaintiff receives from a source other than the defendant must be taken into consideration; restrictions on venue; and provisions to discourage frivolous lawsuits.

UNIFORM STATEWIDE VOTING SYSTEM

In 2003, the House of Representatives and the Senate passed different versions of legislation providing for a uniform statewide voting system, but compromise legislation was not approved prior to adjournment for the year. The legislation provides that the State Election Commission shall: (1) approve and adopt one voting system to be used by authorities charged by law with conducting elections; (2) provide training for personnel in the operation of this uniform voting system; and (3) support all aspects of creating the ballots and the database of the voting system.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

H.4438 NOISE CONTROL FOR MOTORBOATS Rep. Taylor

This bill extends the current noise control requirements for motorboats operating on Lake Wylie to motorboats operating on Lake Greenwood as well.

H.4439 SOUTH CAROLINA ANIMAL ECOLOGICAL TERRORISM ACT Rep. G.R. Smith

This bill enacts the South Carolina Animal Ecological Terrorism Act, which provides civil and criminal penalties for persons encouraging, financing, assisting, or engaging in acts of animal and ecological terrorism as defined in the bill. The bill also requires the establishment of a registry of animal and ecological terrorists within the Office of the Attorney General. A person who is convicted of or pleads guilty to a violation of these provisions must be included on this list.

EDUCATION AND PUBLIC WORKS

H.4412 CELLULAR PHONES/BEGINNER'S PERMITS Rep. Mahaffey

This bill makes it unlawful for a person who possesses a beginner's permit to operate a motor vehicle while using a wireless communication device when the vehicle is in motion. Violation of this provision is a misdemeanor punishable by a fifty dollar fine.

H.4415 MIDLANDS TECHNICAL COLLEGE COMMISSION Rep. J. Brown

This bill removes the term limitation for members of this commission.

H.4416 VISION REQUIREMENTS FOR DRIVERS Rep. G.R. Smith

This bill permits a person whose corrected vision is less than 20/40 but better than 20/200 to obtain a driver's license and operate a motor vehicle under certain circumstances.

H.4436 "SOUTH CAROLINA SCHOOL CHOICE ACT OF 2004" Rep. Vaughn

This bill requires the State Board of Education to develop and implement a school choice program for students in certain failing schools; students who have repeated at least one grade level in one of the three most recent school years; students whose family income is below three hundred percent of the federal poverty level; and all K-12 students on a phase-in basis under specified conditions and requirements.

H.4442 CLASSROOM ORGANIZATION AND MANAGEMENT TECHNIQUES INSTRUCTION Rep. Townsend

This bill provides that colleges or universities with a teacher education program must require a course on classroom organization and management techniques that

include methods of managing disruptive behavior. The bill further requires completion of this course as preparation for a teacher's certification.

H.4443 VIDEO SURVEILLANCE ON PUBLIC SCHOOL PROPERTY Rep. Townsend

This bill allows district school boards to implement video surveillance programs on public school property to ensure the safety of students and teachers. The bill requires that such programs must be governed by written procedures adopted by the board.

H.4445 CAROLINA PUBLIC SCHOOL DISTRICT Rep. Rice

This bill creates and provides for the Carolina Public School District ("the District") as a local education agency whose boundaries are the same as the boundaries of the State. The bill establishes powers for the District, including but not limited to sponsoring charter schools and awarding academic passports, under certain conditions, in the form of cash payments or an education tax credit..

H.4477 AUTISM TRAINING TASK FORCE Rep. Limehouse

This bill establishes and provides for the South Carolina Autism Training Task Force, charged to inventory and assess current training and education options for identification, assessment, intervention, treatment, and support of a person with autism. The Task Force is to report to the legislature by May 2005 a plan of action to address areas of need, and make training and education recommendations related to programs and practices grounded in scientifically-based research.

JUDICIARY

H.4414 POWERS AND DUTIES OF THE STATE SUPERINTENDENT OF EDUCATION DEVOLVED UPON THE GOVERNOR'S OFFICE

Rep. Altman

This bill devolves the powers and duties of the State Superintendent of Education upon the office of the Governor. Under the bill, funds appropriated to the State Superintendent of Education must be appropriated to the office of the Governor and the compensation of the State Superintendent of Education is not to be diminished for as long as the office exists.

H.4417 PAROLE BOARD HEARINGS FOR VIOLENT CRIMINALS/ LYNCHING DESIGNATED A VIOLENT CRIME Rep. Altman

This bill provides that both lynching in the first and second degree are violent crimes. The bill revises requirements that the parole board review the cases of certain prisoners who have served one fourth of their sentences, so as to provide that a prisoner convicted of a crime whose victims suffered bodily injury shall have his case reviewed every five years, rather than every year, after a request for parole is denied. The bill provides that a negative determination of parole for a prisoner confined for commission of a violent crime must be reviewed every five years instead of every two years. The bill eliminates a provision that allows a person to

have his case reviewed every twelve months who has been denied parole in the commission of a crime that qualifies for early parole provisions for certain offender victims of spousal abuse.

H.4419 LOCATION OF ADULT BUSINESSES IN THE ABSENCE OF COUNTY ZONING ORDINANCES Rep. Neilson

This bill provides that an adult business establishment may not operate or do business within five hundred feet of a church, school, or playground located in the unincorporated portion of a county when that county has not adopted a zoning ordinance.

H.4422 MEXICAN MATRICULA CONSULAR NOT ACCEPTED AS VALID FORM OF IDENTIFICATION BY STATE AND POLITICAL SUBDIVISIONS Rep. Altman

This bill provides that an entity of state government and a political subdivision of this State, including a school district, must not accept a 'matricula consular' issued by the United Mexican States as a form of identification.

H.4428 REVISIONS TO 2003 DRIVING UNDER THE INFLUENCE PROVISIONS Rep. Wilkins

This bill revises provisions relating to driving with an unlawful alcohol concentration, so as to substitute the term "arrest" for the term "traffic stop." The bill eliminates the prohibition of arrests pursuant to traffic roadblocks or driver's license checkpoints. The bill eliminates the specific enumeration of certain types of evidence that may be introduced relating to a person's alcohol concentration. The bill eliminates a provision pertaining to jury instructions. The bill revises provisions relating to a driver's implied consent to be administered certain chemical tests, and the administration of certain tests and their results and inferences, so as to eliminate a provision that provides that the failure to comply with policies, procedures, and regulations promulgated by SLED results in the exclusion from evidence of test results under certain circumstances. The bill revises provisions relating to videotaping of the incident site and breath site, so as to eliminate the requirement that a person must be advised of his Miranda Rights before a field sobriety test may be administered and to eliminate the requirement that the reading of the Miranda Rights must be videotaped at the breath site.

H.4429 CHANGING THE SURNAME OF A MINOR CHILD IN FAMILY COURT Rep. Lucas

This bill provides that in an action to change the surname of a minor child the family court in determining the best interests of the child, shall consider factors including, but not limited to the: (1) length of time the child has used the present surname; (2) effect of the proposed change on the preservation and development of the child's relationship with each parent; (3) identification of the child as part of a family unit; (4) wishes of the parents; (5) stated reason for the proposed change; (6) motive of the parents; (7) the possibility that the use of a different name will cause insecurity or lack of identity; (8) difficulty, harassment, or embarrassment the child may experience when the child has a surname different from that of the custodial parent; (9) preference of the child, if the child is of an age and maturity to express a

meaningful preference; and (10) degree of community respect associated with the present and proposed surnames.

H.4430 ATTEMPTS TO PURCHASE ALCOHOL UNLAWFUL FOR UNDERAGE INDIVIDUALS Rep. Taylor

This bill revises provisions relating to the unlawful purchase or possession of alcoholic liquors, beer, ale, wine, malt, or other fermented beverage by underage individuals so as to provide that it is unlawful for a person under the age of twenty-one to attempt to purchase such beverages. The bill exempts from the provisions a person under the age of twenty-one acting under the direct supervision of a law enforcement agency.

H.4431 PARENTAL RIGHT TO PARTICIPATE IN DECISIONS ABOUT MINOR CHILD'S MEDICAL PROCEDURES Rep. Neilson

This bill revises provisions relating to the rights and duties of parents concerning their minor children, so as to provide that each parent has a right to participate in decisions about a child's medical procedure. This provision does not permit the delay of necessary medical treatment.

H.4432 EXPUNGEMENT OF CRIMINAL RECORDS Rep. G. M. Smith

This bill revises provisions relating to the expungement of criminal records, so as to define 'conviction', provide a statutory procedure for obtaining expungement of a criminal record; authorize an expungement fee of three hundred fifty dollars to the circuit solicitor; name the government agencies requiring notice of the expungement; authorize a verification fee of twenty-five dollars to SLED; and require SLED to keep a nonpublic record of the expungement.

H.4446 ACCESS TO RECORDS OF CUSTODY AND VISITATION CASES Rep. Taylor

This bill provides that in custody and visitation cases litigants are entitled to a verbatim copy of the transcript and that the cost of the transcript may not exceed two dollars per page. The bill provides that the Supreme Court must establish by rule a procedure for the storage of tapes or other sonic recordings in a government facility. The bill authorizes a party in a custody or visitation proceeding to record the proceeding if there is no active interference with the conduct of the hearing.

H.4448 "GRANDPARENT VISITATION ACT" Rep. Neilson

This bill establishes conditions under which grandparent visitation may be granted by the family court.

H.4451 CRIMINAL SOLICITATION OF MINORS/ OBSCENITY AND EXPLOITATION OF MINORS Rep. G. M. Smith

This bill creates the offense of criminal solicitation of a minor, provides penalties, and authorizes seizure of equipment used in the commission of the offense. The bill eliminates the requirement that an obscenity crime must be multi-county in nature or must transpire in more than one county for the State Grand Jury to have

jurisdiction. The bill increases penalties for numerous offenses involving minors and obscenity laws and the exploitation of minors.

H.4452 CRIMINAL DOMESTIC VIOLENCE IN THE PRESENCE OF A CHILD

Rep. McGee

This bill creates the offense of criminal domestic violence in the presence of a child and provides penalties. The bill revises the definition of child abuse or neglect, so as to include in the definition the new offense of criminal domestic violence in the presence of a child.

H.4453 LIFE EXPECTANCY TABLE FOR CIVIL LITIGATION Rep. Sheheen

This bill updates the Life Expectancy Table for Civil Litigation using the 2001 Commissioners Standard Ordinary Mortality Table.

H.4454 AUTHORITY TO CALL FOR REFERENDA REGARDING LOCAL OR REGIONAL HOSPITALS GOVERNED BY POLITICAL SUBDIVISIONS

Rep. Vaughn

This bill provides that for certain political subdivisions of this state that were created to operate hospitals on a local or regional basis, the ability to call for or conduct advisory or binding referenda regarding their activities shall rest solely with the governing board of the political subdivision and the governmental bodies which appoint the board, including a county legislative delegation.

H.4457 TRIAL VENUE FOR CIVIL ACTIONS Rep. Harrison

This bill revises provisions relating to actions that must be tried in the county where the defendant resides, so as to define key terms and to provide factors for the court to consider when determining a corporation's principle place of business. The bill revises provisions relating to changing the place of trial, so as to provide factors for the court to consider when determining whether to change the place of trial. The bill revises provisions relating to personal jurisdiction based upon conduct, so as to clarify that the provisions apply only to specifically enumerated causes of action. The bill eliminates a provision relating to the proper venue to bring an action against a licensed motor carrier.

H.4458 FRIVOLOUS CIVIL PROCEEDINGS Rep. Harrison

This bill revises the South Carolina Frivolous Civil Proceedings Sanctions Act, so as to replace the existing provisions with provisions requiring the signature of an attorney or *pro se* litigant on all pleadings and other documents filed in a civil or administrative action. The legislation provides that the signature constitutes certification that the action is not frivolous or interposed for delay. Sanctions are provided.

H.4459 STATUTE OF LIMITATIONS FOR FILING AN ACTION FOR A CONSTRUCTION DEFECT Rep. Harrison

This bill revises the statute of limitations for filing an action for a construction defect, so as to decrease the statute of repose from thirteen to eight years.

H.4460 NOTICE AND OPPORTUNITY TO CURE CONSTRUCTION DEFECTS IN IMPROVEMENTS TO REAL PROPERTY Rep. Harrison

This bill revises provisions relating to notice and opportunity to cure construction dwelling defects, so as to substitute the term "improvement to real property" for the terms "dwelling" and "residential improvement." The bill provides a definition for the term "improvement to real property." The bill provides that the statute of limitations is tolled until a claim is denied or repairs are completed. The legislation provides that the claimant may proceed with a civil action if a dispute between the parties is not settled within ninety days of the initial notice of claim.

H.4461 *LEGAL RATES OF INTEREST* Rep. Harrison

This bill establishes a prejudgment legal rate of interest equal to the prime rate as listed in the Wall Street Journal plus two percent. The bill establishes a postjudgment legal rate of interest equal to the prime rate as listed in the Wall Street Journal plus four percent.

H.4462 *BIFURCATED TRIAL IN CIVIL ACTIONS TRIED BEFORE A JURY WHEN PUNITIVE DAMAGES ARE SOUGHT* Rep. Harrison

This bill provides for a bifurcated trial in civil actions tried before a jury when punitive damages are sought. In the first phase of the trial the jury shall: (1) determine and assign liability among the parties; and (2) award compensatory damages against the liable parties. At the conclusion of the first phase of the trial, if the court determines that the conduct of the liable parties was willful and wanton, the trial moves into a second phase in which the jury shall determine if punitive damages are warranted against the liable parties and the amount of punitive damages to be awarded. The legislation establishes specific criteria that a jury must consider in awarding punitive damages. Upon motion of the liable party, the court shall conduct a post trial review, on the record, to ensure that an award is not grossly disproportionate to the severity of the offense or conduct.

H.4463 *LIABILITY OF TORTFEASORS* Rep. Harrison

This bill revises the South Carolina Contribution Among Tortfeasors Act, so as to increase the time in which a claimant may open a judgment to two years; to abolish joint and several liability; and to provide for contributory liability among tortfeasors.

H.4464 *"MEDICAL MALPRACTICE AND PATIENT SAFETY REFORM ACT"* Rep. W. D. Smith

This bill enacts the "Medical Malpractice and Patient Safety Reform Act."

H.4470 *DEFRAUDING SECURED CREDITORS* Rep. Harrison

This bill creates the offense of defrauding secured creditors. Under the bill, a person who destroys, removes, cancels, encumbers, transfers, or disposes of property that is subject to a security interest, with the intent to hinder the enforcement of the interest, is guilty of defrauding a secured creditor and, upon conviction, must be imprisoned for not more than five years.

H.4471 *DESIGNATION OF LEGISLATIVE SPONSORSHIP OF OFFICIAL STATE SYMBOLS, ACTIVITIES, AND OTHER MATTERS* Rep. Snow

This bill provides that the editor of the South Carolina Legislative Manual shall ask the primary sponsor of an enacted bill or joint resolution which designates any matter, thing, undertaking, or activity as an official state matter, thing, undertaking,

or activity whether or not the member wishes his or her name to appear in the Legislative Manual as the primary sponsor of the bill or joint resolution. If so, and if the designation is reflected in the Legislative Manual, the member's name must appear alongside the designation as the primary sponsor of the bill or joint resolution making the designation together with the act number and year of the bill or resolution.

H.4479 TARGETED RELEASE PLAN/ ALTERNATIVE PLACEMENT PROGRAM/ OTHER CORRECTIONS MATTERS Rep. Wilkins

This bill establishes both a Targeted Release Plan and an Alternative Placement Program within the Department Of Corrections. The bill revises provisions relating to good behavior, work, and academic credits, so as to require the Department Of Corrections to develop policies, procedures, and guidelines to allow certain prisoners to receive a reduction in their sentences and to revise the maximum amount of time that may be reduced from a sentence. The bill revises provisions relating to the forfeiture of work, education, or good conduct credits, so as to provide that a reduction in these credits may be implemented pursuant to an administrative law judge's recommendation. The legislation allows a court to limit the number of lawsuits filed against a person, agency, or entity under certain circumstances. The bill revises provisions specifying matters exempt from disclosure under the Freedom of Information Act, so as to provide that certain architectural plans, drawings, or schematics or law enforcement policies whose disclosure would reasonably be used to facilitate an escape from lawful custody may be exempt from disclosure.

LABOR, COMMERCE AND INDUSTRY

H.4413 RATE CHANGES FOR CASUALTY INSURANCE Rep. Cato

This bill revises criteria for the making of rates for casualty insurance, so as to provide that consideration must be given to assessments, such as the Guaranty Fund, Wind and Hail Joint Underwriting Association, and similar mechanisms when making the rates. The bill provides that proposed rates changes where the sole factor for the change is the impact of a revised assessment does not constitute a rate increase for purposes of the requirement that an insurer make or issue a contract or policy only on rates which are in effect.

H.4418 PARTICIPATION OF MEMBERS OF SCHOOL DISTRICT BOARDS OF TRUSTEES AND THEIR DEPENDENTS IN STATE HEALTH AND DENTAL INSURANCE PLANS Rep. J. R. Smith

This bill provides that members of school district boards of trustees and their eligible dependents are eligible to participate in the state health and dental insurance plans by paying the full premium costs, upon adoption of a resolution by the board of trustees of a school district authorizing such participation.

H.4420 ASSIGNING EMPLOYMENT SECURITY LAW EMPLOYER NUMBER IN BUSINESS ACQUISITIONS/REORGANIZATIONS Rep. Kirsh

This bill provides that for purposes of the South Carolina Employment Security Law, a new employing unit must not be assigned a discrete employer number when there is an acquisition or change in the form of the organization of an existing business enterprise with continuity of control.

**H.4433 DISCLOSURE OF SOCIAL SECURITY NUMBERS IN EMPLOYMENT
APPLICATIONS** Rep. G. M. Smith

This bill prohibits an employer from requiring that a prospective employee disclose his social security number in an initial application for employment. The bill provides for the disclosure of the social security number of an applicant upon his acceptance of employment or upon his acceptance of employment contingent on a satisfactory background check, if he has received written notice that a background check is reasonably required for the position. The bill revises provisions relating to immunity for employers disclosing certain information, so as to provide that the immunity does not apply to an employer who releases an application for employment in which the prospective employee has disclosed his social security number.

**H.4434 TELEMARKETING OR TELEPHONE CENTER SERVICES OPERATED
BY FOREIGNERS** Rep. Wilkins

This bill provides that an expenditure of State funds under contract through a governmental body for telemarketing services or telephone center services requires contract provisions that the services must be performed in the United States and that only United States citizens and persons authorized to work in the United States may be employed. The bill revises provisions for the regulation of unsolicited telephone calls, so as to provide that a person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center has the right, upon request, to: (a) know the city, state, and country in which the customer service employee is located; (b) know the name or registered alias of the customer services employee; (c) know the name of the employer of the customer service employee; and (d) speak to an authorized employee of the contracting company or government agency the person is doing business with. The bill provides that the financial, credit, or identifying information of a person who receives a telephone call from, or places a telephone call to, a customer sales call center or a customer service call center must not be sent to any foreign country without express written permission of that person.

**H.4441 SECOND INJURY FUND CLAIMS UNDER WORKERS'
COMPENSATION PROVISIONS** Rep. Leach

This bill provides that no claim for injury or disease filed on or after July 1, 2004, serves as the basis for reimbursement of sums paid by an employer or insurance carrier pursuant to Second Injury Fund provisions. These claims for injury or disease filed on or after July 1, 2004, remain the responsibility of the employer or its insurance carrier.

H.4472 "SOUTH CAROLINA HEALTH CARE FINANCIAL RECOVERY ACT"
Rep. Cato

This bill enacts the "South Carolina Health Care Financial Recovery Act" which establishes requirements for insurers to provide timely payment or reimbursement for health care services.

**H.4473 REVISIONS TO ALTERNATIVE MEANS OF REGULATING
TELECOMMUNICATIONS CARRIERS Rep. Cato**

This bill revises provisions relating to the requirements for a telephone utility to be granted a certificate of necessity before the construction, operation, or extension of a plant or system, so as to provide that telecommunications carriers that have elected to be regulated by specified alternative means shall provide these contracts to the Public Service Commission as required. The bill revises provisions relating to the election a local exchange carrier may make with regard to its regulation, so as to: define "abuse of market position" and require the commission to resolve complaints within one hundred twenty days; to define "bundled offering" and "contract offering" and to prohibit the commission from regulating a bundled offering or contract offering by a carrier.

**H.4478 EXEMPTION FROM AUCTIONEERS' CONTINUING EDUCATION
REQUIREMENT Rep. Snow**

This bill provides that an auctioneer who is at least sixty-five years of age and has been licensed as an auctioneer for twenty-five years or more is exempt from the annual continuing education requirement.

**H.4480 WORKERS' COMPENSATION COMMISSION ABOLISHED AND
FUNCTIONS TRANSFERRED TO A NEW DEPARTMENT OF
INSURANCE DIVISION Rep. Leach**

This bill abolishes the South Carolina Workers' Compensation Commission and transfers all assets and employees to a new Division of Workers' Compensation in the South Carolina Department Of Insurance. The bill revises provisions relating to powers of an administrative law judge, so as to provide that a rotating panel of three administrative law judges shall hear applications for review of decisions of the Division of Workers' Compensation of the Department of Insurance. The bill provides for judicial review of the three-judge panel and where the appeal must be heard. This bill provides that no claim for injury or disease filed on or after July 1, 2004, serves as the basis for reimbursement of sums paid by an employer or insurance carrier pursuant to Second Injury Fund provisions.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

**H.4444 REVISION OF TERMINOLOGY USED IN INTERSTATE
COMPACT ON MENTAL HEALTH Rep. Lucas**

This bill amends the Interstate Compact on Mental Health so as to replace the term "institution" with the term "mental health care facility."

H.4455 REQUIREMENTS FOR PHARMACIES Rep. Clemmons

This bill provides that in the event of transfer of an original prescription between pharmacies, all remaining refills, rather than only one refill, may be transferred to and dispensed by the receiving pharmacy. The bill also deletes the reference in this section which makes this provision applicable to in-state pharmacies. The bill also deletes a current provision which contains procedures for dispensing restricted drugs.

WAYS AND MEANS

H.4421 *PROPERTY TAX ASSESSMENT NOTICES* Rep. White

This bill provides that a property tax reassessment notice resulting from a countywide assessment and equalization plan must contain an estimate of the property tax liability on the parcel for the next property tax year using the value determined for the parcel in the countywide plan and an estimated rollback millage rate.

H.4423 *ROLLBACK MILLAGE RATE* Rep. White

This bill provides that the rollback millage rate otherwise applicable for the property tax year in which the values determined in a countywide assessment and equalization program are implemented may not be increased except upon a favorable vote in a referendum held for that purpose.

H.4424 *USE OF SALES AND USE TAX OR TOLLS FOR CONSTRUCTION OF TRANSPORTATION FACILITIES* Rep. Altman

This bill provides that if the imposition of a *county sales and use tax* for transportation facilities is not approved by referendum or for any reason the tax was not imposed after the referendum, then a subsequent referendum for such an imposition may not be held before the second statewide general election after the referendum. The bill also provides that if a referendum to impose *tolls* for transportation facilities is not approved or for any reason the tolls were not imposed after the referendum, a subsequent election for such an imposition may not be held within four years after the date in which was held the referendum.

H.4426 *PAYMENT FOR UNUSED LEAVE OF TERI PARTICIPANTS* Rep. Kirsh

This bill provides, prospectively, that a participant in the Teacher and Employee Retention Incentive (TERI) Program is not eligible for a lump sum payment for unused annual leave earned while participating in the TERI program.

H.4427 *REPEAL OF THE TERI PROGRAM* Rep. Kirsh

This bill closes the TERI program to new participants effective July 1, 2004, and repeals the program effective July 1, 2009.

H.4435 *CIGARETTE ROLLING PAPER* Rep. Kirsh

This bill imposes a tax on cigarette rolling paper and makes it unlawful to sell, furnish, give, or provide cigarette rolling paper to a minor under age 18.

H.4440 *PROPERTY TAX ON BOATS* Rep. Limehouse

This bill provides that a boat on which the interest portion of indebtedness is deductible under the Internal Revenue Code as an interest expense on a qualified primary or secondary residence is also a primary or secondary residence for purposes of property tax and is considered real property rather than personal property for property tax purposes. The bill also provides that the maximum *ad valorem* taxation on such a boat for any year is one thousand, five hundred dollars.

H.4447 *STATE SPENDING LIMITATION* Rep. W.D. Smith

This bill proposes elimination of the current constitutional state spending limitation and imposition of a limitation on general fund revenue appropriations for a fiscal year in an amount equal to the prior year's general fund appropriations plus two and one-half percent. The bill provides for calculation of the spending limit; enforcement of the spending limit; and for suspension of the limit in certain fiscal emergencies. The bill also provides for uses of surplus general fund revenues

**H.4449 *EXEMPTIONS FROM BUDGET AND CONTROL BOARD
ACROSS-THE-BOARD REDUCTIONS* Rep. Umphlett**

This bill exempts from across-the-board reductions ordered by the Budget and Control Board amounts appropriated in the annual General Appropriations Act as salary supplements for county clerks of court, probate judges, sheriffs, registrars of deeds, county auditors, and county treasurers.

**H.4450 *REQUIREMENTS FOR COUNTYWIDE REASSESSMENT
PROGRAMS* Rep. Vaughn**

This bill provides that as part of the State's required county reassessment programs for purposes of the property tax, each parcel of improved real property must be visited by personnel of the Assessor's Office in the two years ending with the completion of the reassessment program. The bill also includes requirements for memorializing and timing such visits.

H.4456 *PENALTIES UNDER THE POLLUTION CONTROL ACT* Rep. Vaughn

This bill requires counties receiving funds from penalties collected under the Pollution Control Act to expend these funds for environmental emergencies and remediation of environmental damage, and provides for the tracking of these

receipts and expenditures. The bill also provides for a \$500,000 increase in the cap of the Environmental Protection Fund provides for the use of these funds. The bill also provides that the Department of Health and Environmental Control may expend up to \$250,000 of the fund each fiscal year for compliance assistance to the regulated community and to provide for the protection of the environment and public health.

H.4465 *HOMESTEAD EXEMPTION* Rep. Vaughn

This bill provides that the amount of the homestead exemption (currently \$50,000) for persons over age 65 and certain disabled persons must be indexed to inflation in the same manner and by the same percentage that federal income tax brackets are adjusted to reflect increases in the Consumer Price Index.

H.4466 AID TO SUBDIVISIONS Rep. Vaughn

This bill repeals that section of the Aid to Subdivisions Act which provides that separate legislation solely for such purpose is required to amend or repeal any section of the Act.

H.4467 TIMING FOR PROPERTY TAX PAYMENTS

AND NOTICES Rep. Vaughn

This bill requires that the tax notice for real property for the last property year before the implementation in the county of revised values determined in the countywide assessment and equalization program must contain a projected property tax for the parcel for the succeeding property tax year, using the value determined in the program and the millage rate applicable for the property tax year of the tax notice, but rolled back in the manner provided in the bill.

H.4468 PROPERTY TAX REASSESSMENT AND EQUALIZATION

PROGRAMS Rep. Vaughn

This bill provides that for the property tax year of implementation of a countywide assessment and equalization program, the property tax millage of all property taxing entities in the county must be adjusted to a rate estimated to produce no more revenue than the total of such revenue received by the entity in the preceding property tax year, increased by a percentage equal to the average year-to-year growth of property tax revenue to the entity in the four years preceding the year of implementation, plus an additional one percent. The bill provides that for the property tax year corresponding to the year of implementation of the assessment and equalization program, revenue for general obligation debt service or other forms of financing of capital improvements are included within the limitation imposed by these provisions. Regarding millage rate limitations on local governing bodies, the bill deletes the authorization for millage rate increases equal to increases in the Consumer Price Index without a positive majority vote of the governing body.

H.4469 PROHIBITION OF FEE ON TRANSFER OF

REAL PROPERTY Rep. Herbkersman

Regarding the current prohibition on the imposition of a fee or tax on the transfer of real property, this bill authorizes a municipality to impose the tax or fee if another municipality located in the same county was imposing the fee before January 1, 1991, by petition and approval of the county legislative delegation. The bill allows a county or municipality to impose a transfer fee not to exceed one quarter of one percent of the value of the real property, and provides for use of the fee proceeds.

H.4474 *PROPERTY TAX EXEMPTIONS* Rep. Clemmons

This bill extends the property tax exemption for the dwelling of a service member permanently and totally disabled from a service-connected disability to a law enforcement officer or firefighter so disabled. The bill also extends the exemption allowed for the dwelling of the surviving spouse of a service member or law enforcement officer killed in the line of duty to the surviving spouse of a firefighter who died in the line of duty.

H.4475 *FISCAL DISCIPLINE PLAN OF 2004* Rep. Harrell

Relating to actions necessary for the State Budget and Control Board to cover an operating deficit, this bill requires an operating deficit to be placed first on the agenda of the State Budget and Control Board at the first Board meeting following the Comptroller General's report of the deficit. The bill also provides for the repayment of the accumulated state operating deficit and limits General Fund appropriations growth to three percent in Fiscal Years 2003-2004 through 2008-2009. The bill also provides for the use of surplus revenues and provides that during this period annually required transfers to the General Reserve Fund must be considered recurring General Fund appropriations.

H.4476 *EXEMPTIONS FROM REDUCTIONS ORDER BY THE STATE BUDGET AND CONTROL BOARD* Rep. Umphlett

This bill exempts from across-the-board reductions ordered by the State Budget and Control Board amounts appropriated in the General Appropriations Act as salary supplements for county clerks of court, probate judges, sheriffs, registrars of deeds, county auditors, and county treasurers. The bill also provides for the county coroner as a county official receiving a salary supplement from the state.

H.4481 *SOUTH CAROLINA MILITARY PREPAREDNESS AND ENHANCEMENT ACT* Rep. Ceips

This bill establishes and provides for the South Carolina Military Preparedness and Enhancement Commission, for the purpose of enhancing the value of military facilities located in South Carolina and assisting defense communities with such value enhancement. The bill establishes a revolving loan account to provide loans to assist defense communities. The bill authorizes twenty-five million dollars in state general obligation bonds for funding of the loan account.

H.4482 *FEDERAL DEFENSE FACILITIES UTILIZATION INTEGRITY PROTECTION ACT* Rep. Cotty

This bill provides processes and procedures whereby local planning entities and officials must consider certain matters and take certain actions in regard to development in areas contiguous to federal military installations located in South Carolina. These provisions are intended to ensure that development in areas near these installations is conducted in a coordinated manner and considers federal military interests in planning and zoning decisions.

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